

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SCOTTY LEMOND BARKER, #2768,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:23-cv-189-JDK-KNM
	§	
HENDERSON COUNTY JAIL, et al.,	§	
	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Scotty Lemond Barker, an inmate of the Henderson County Jail proceeding *pro se* and *in forma pauperis*, filed this lawsuit pursuant to 42 U.S.C. § 1983 alleging violations of his civil rights in prison. The case referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 13, 2024, the Magistrate Judge entered a Report and Recommendation that Defendant's motion for summary judgment for failure to exhaust administrative remedies be granted and that this case be dismissed without prejudice. Docket No. 29. No timely objections were filed.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other*


grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 29) as the findings of this Court. The Defendant's motion for summary judgment for failure to exhaust (Docket No. 24) is **GRANTED**, and this case is **DISMISSED** without prejudice for failure to exhaust administrative remedies. All pending motions are **DENIED** as **MOOT**.

So ordered and signed on this

Aug 5, 2024


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE